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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,498	12/05/2003	Jacob Mathews	14846-29	2319
7590 04/20/2009 GEORGE D. MORGAN, ESQ LOWENSTEINS SANDLER PC 65 LIVINGSTON AVENUE ROSELAND, NJ 07068				
			EXAMINER FERTIG, BRIAN E	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 04/20/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/730,498

Applicant(s)

MATHEWS ET AL.

Examiner

BRIAN FERTIG

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-6, 8-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6, 8-11, and 13-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to Applicant's filing of 2/9/2009. Claims 1, 3-6, 8-11, and 13-17 are pending and examiner below. Claims 2, 7 and 12 are cancelled.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3-6, 8-11, and 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Where Applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "protocol" in claims 1, 11, and 17 is, based on Applicant's arguments filed 2/9/2009, used by the claims to somehow exclude the formatting of data. Based on Lewis and Crosthwaite (cited below), the term as understood by those skilled in the art implies no such exclusion. The term is indefinite because the specification does not clearly redefine the term, but instead ascribes a broad meaning in so far as Applicant's Specification recites, "A trading protocol refers to the set of rules to enable computers to exchange trading information" (see pg 3).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 3, 5-6, 8-11, 13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication 2002/0065752 for Lewis (Lewis).

With respect to claim 1

Lewis teaches:

A system for offering a financial instrument across different types of trading platforms, comprising:

a plurality of trading platforms (i.e. source systems and servers

110, 111, 112 serviced in combination with the controller, see fig 4 and par

81), at least two of the plurality of trading platforms employing different trading protocols for exchanging trading information (see fig 16, note that the source systems use a proprietary transaction protocol and the servers use a standardized transaction protocol); and

an interface (i.e. message bus in combination with interface transformation server, see fig 4) for linking the plurality of trading platforms to allow an offering of a financial instrument that is posted by a primary trading platform (i.e. transaction originated by a Source System, see fig 4 and fig 16) to be simultaneously offered in at least one secondary platform (note that the offerings are simultaneously made available, see par 67), the offering being sent as a quote message to the interface in accordance with the trading protocol employed by the primary trading platform (see fig 16, par 77 and 80 note that the trade is sent as a proprietary transaction to the Interface Transformation Server), the interface including at least one adapter coupled to each of the secondary trading platforms (note that the Information Transformation Server is coupled to the controller/servers 110, 111, and 112 see fig 4), each adapter configured to translate the quote message and include the trading protocol employed by the corresponding trading platform to receive the translated quote message (see par 77 and fig 16, note that the Interface Transformation Server translates the proprietary trades into standardized transaction.), each of the secondary trading platforms receiving the posted offering using their respective

trading protocol (note that the controller/servers 110, 111, and 112 receive the message in the standardized transaction protocol),

each of the secondary trading platforms having received the translated quote message sending back a quote acknowledgement message to the interface via the corresponding adapter coupled thereto using their respective trading protocol, the interface ensuring that the quote acknowledgement message sent by a secondary trading platform is in agreement with the primary trading platform (see par 80, note that messages that have been checked by the controller and rejected are returned to the sender via the message base. By extension, it is an obvious design choice to send confirmation for all received messages since the choices for whether to send a confirmation for a successful message is limited to either doing so or not doing so. It is also fairly suggested that these messages are sent back using the standardized transaction protocol since the system as a whole seeks to transform the data within it into standardized data (see par 100)).

Lewis does not explicitly teach:

a trading protocol being a set of rules governing how computers of trading platforms communicate and transfer data

However, Lewis fairly suggests this definition based on the claims of Lewis and Fig 16. Taking claim 1 of Lewis as representative, the claims reads "said system comprising a. transactional data input system for collecting incoming transactions having

heterogeneous characterization, and **processing said transaction data into one or more message units having a common communications protocol.**" (emphasis added by Examiner). When read in light of fig 16 and par 78 this recitation fairly suggests that Lewis's teaching of "system compliant" and "proprietary" transaction, do, in fact, refer to 'protocols' as generally understood in the art. Fig 16 clearly depicts the transformation of the Lewis's claimed 'transaction having heterogeneous characterization' into 'message units having a common communications protocol'. As such, there is a fair suggestion that the incoming 'transaction data' is of heterogeneous protocol is transformed into the 'common communications protocol' or Lewis's core system. Thus, contrary to Applicant's assertion that the protocols taught by Lewis are all common and not synonymous with the 'formats' of Lewis, Lewis instead teaches transforming the protocols of the disparate systems into a common format (see par 23) and, in parallel, claims this functionality in terms of 'protocols.'

With respect to claims 11 and 17

Lewis teaches:

A method and program storage device for offering a financial instrument across different types of trading platforms, at least two of the trading platforms employing different trading protocols for exchanging trading information, a trading protocol being a set of rules governing how computers of trading platforms communicate and transfer data (see rationale supporting the rejection of claim 1 above), said method comprising the steps of:

posting an offering of a financial instrument initially in a primary trading platform (i.e. offers posted on the information source systems, see par 122, and 125 and fig 4);

sending the offering to at least one secondary trading platforms (note that the offers are sent to the controller/servers 110,111,112, see par 79-80), the primary and secondary trading platforms being linked by an interface (i.e. linked by the message bus/Information Transformation Server, see fig 4), and the offering being sent to the interface as a quote message in accordance with the trading protocol employed by the primary trading platform (see fig 16, note that the message is sent as a proprietary transaction);

translating the quote message of the posted offering at the interface, wherein the translation includes the trading protocol employed by the corresponding secondary trading platform to receive the translated quote message (see par 78, and fig 16 note that Interface Transformation Server reformats the transaction into a message conforming to a standard definition) ; and

receiving at the interface a quote acknowledgement message from the secondary trading platform having received the translated quote message, the quote acknowledgement message being sent to the interface in accordance with the trading protocol employed by the secondary trading platform (see par 80, note that messages that have

been checked by the controller and rejected are returned to the sender via the message base. By extension, it is an obvious design choice to send confirmation for all received messages (both rejected and accepted) since the choices for whether to send a confirmation for a successful message is limited to either doing so or not doing so. It is also fairly suggested that these messages are sent back using the standardized transaction protocol since the system as a whole seeks to transform the data within it into standardized data (see par 100)).

(see rationale supporting obviousness of claim 1 above)

With respect to claims 3 and 13

Lewis teaches:

The system of claim 1 (see rejection of claim 1 above), wherein the quote acknowledgment message is generated after receipt of a posted trade request to purchase a specified quantity of a specified financial instrument at a specified price (see par 80 in combination with obvious design choice rationales of claim 1 above).

(see rationale supporting obviousness of claim 1 above)

With respect to claims 5 and 15

Lewis teaches:

The system of claim 1 (see rejection of claim 1 above), wherein a first trading platform includes a risk management component (see fig 4, note risk component

of Analytical and user systems) and a second trading platform includes a trading portal (i.e. applications/user interfaces, see par 131, 137-144, and Fig 23-30).

(see rationale supporting obviousness of claim 1 above)

With respect to claims 6 and 16

Lewis teaches:

The system of claim 1 (see rejection of claim 1 above), further including a reporting component for reporting transaction information associated with trading activity (i.e. applications/user interfaces, see par 131, 137-144, and Fig 23-30).

(see rationale supporting obviousness of claim 1 above)

With respect to claim 8

Lewis teaches:

The system of claim 1 (see rejection of claim 1 above), wherein the interface ensures that offering information is uniform in each of the plurality of trading platforms (see par 72, note that the data is reformatted into a system compliant format, note that this is uniform in so far as that data is uniformly compliant with each trading platform).

(see rationale supporting obviousness of claim 1 above)

With respect to claim 9

Lewis teaches:

The system of claim 8 (see rejection of claim 8 above), wherein a change in pricing information on one of the plurality of trading platforms causes a corresponding pricing information change on another one of the plurality of

trading platforms (see par 80-81 and par 125, note that market updates trigger updates in, at least, the market data server, which is a centralized database which serves information to the users of the system. see also par 94, and fig 9, note that the database associated with the market data server includes price and quantity as types of market data).

(see rationale supporting obviousness of claim 1 above)

With respect to claim 10

Lewis teaches:

The system of claim 8 (see rejection of claim 8 above), wherein a change in quantity information on one of the plurality of trading platforms causes a corresponding quantity information change on another one of the plurality of trading platforms (see par 80-81 and par 125, note that market updates trigger updates in, at least, the market data server, which is a centralized database which serves information to the users of the system. see also par 94, and fig 9, note that the database associated with the market data server includes price and quantity as types of market data).

(see rationale supporting obviousness of claim 1 above).

6. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication 2002/0065752 for Lewis (Lewis) in view of US Patent Application Publication 2001/0051909 for Keith (Keith)

With respect to claims 4 and 14

Lewis teaches:

The system of claim 1 (see rejection of claim 1 above), but does not explicitly teach wherein a posted trade request is canceled if the quote acknowledgment message is not received within a predetermined time period.

Keith teaches:

wherein a posted trade request is canceled if the quote acknowledgment message is not received within a predetermined time period (see par 130, note that when the system changes from slow to fast mode, the trading system assumes that unconfirmed trades are cancels)

It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have provided the Source Systems of Lewis with the unconfirmed cancellation feature of Keith in order to have prevented transactions from remaining on the book when the system is unable to confirm that intentions of the originating trader as taught implicitly by Keith since the order is cancelled if the umpire does not receive an acknowledgement from the trader that he wishes to leave his order on the book when the system switches to fast mode.

Response to Arguments

7. Applicant's arguments filed 2/9/2009 have been considered but are moot in view of the new ground(s) of rejection.

Other Pertinent Art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US Patent 2004/0230522 for Crosthwaite, see par 44 further suggesting the link between 'formats' and 'protocols'.

Inquiry

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN FERTIG whose telephone number is (571)270-5131. The examiner can normally be reached on Monday - Friday 8:30am to 5:00pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B.F./

/Mary Cheung/
Primary Examiner, Art Unit 3694